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Indiana Law Journal

Volume 10 | Issue 9

Article 5

6-1935

American Bar

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Recommended Citation

(1935) "American Bar," *Indiana Law Journal*: Vol. 10: Iss. 9, Article 5.
Available at: <http://www.repository.law.indiana.edu/ilj/vol10/iss9/5>

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AMERICAN BAR

1935 Meeting of the American Bar

An old carpenter's mallet, glorified beyond its estate with bands of gold and silver, will, for the fifty-seventh year, boom out its command for silence when the American Bar Association members assemble in Los Angeles on July 15 for the opening day of the annual meeting.

Trimmed by the Colorado Bar Association for the second time in 1926 with bands of virgin silver and gold from the Pikes Peak region, the hickory gavel is in reality an old carpenter's mallet that was purchased for seventeen cents in 1878 when the American Bar Association was founded. Since that date the mallet has made its appearance at every meeting.

Nearly five thousand lawyers will hear its command on July 15 when Scott M. Loftin, president of the association, raps for order. Advance hotel and special train reservations indicate that the national gathering will be well attended. Several reports of national importance are scheduled. The Commerce Committee has been gathering data throughout the year to present to the assembly. During March the committee held public hearings in New York City on certain transportation and communication problems. Various national figures, including Joseph B. Eastman, federal transportation co-ordinator, appeared before the committee at this hearing.

Especial interest has been engendered throughout the year in the work of the National Bar Program and of the Coordination Committee. Two open meetings dealing with National Bar subjects will be held. One, under the auspices of the section on legal education and admissions to the bar, will

* Information furnished by the American Bar Association Committee on Unauthorized Practice of Law,

discuss the educational standards now existing for practice before administrative boards and bureaus and before federal courts. Sponsored by the Committee on Unauthorized Practice, the second open meeting will deal with the problem of protecting the public by elimination of unqualified laymen and lay agencies from practice of the law.

The subject of unauthorized practice has been stimulated greatly since becoming a part of the National Bar Program. Increasing evidence of this fact can be gathered from issues of the "Unauthorized Practice News," a monthly publication which is devoted exclusively to the subject. At the present time nearly 200 state and local bar association committees are in existence in the field.

Older members of the association are looking forward to the section meetings. Sections dealing with public utility law, criminal law and insurance law promise lively floor discussion on mooted points.

The Erskine M. Ross prize will be awarded for the second time this year. This prize is given annually for the best discussion of a subject selected by a committee of the association. Carl McFarland of Washington, D. C., was the first recipient of the \$1,000 prize. The subject chosen for this year's discussion is: "The Barrister and the Solicitor in British Practice; the Desirability of a Similar Distinction in the United States."

The main sessions of the convention itself will be held in Philharmonic Auditorium, facing Pershing Square and across the street from convention headquarters in the Biltmore Hotel. Sectional meetings will be held in the various buildings in downtown Los Angeles. The convention will be in session from July 15 to 19, inclusive.

Committees in charge of the program in Los Angeles have outlined an elaborate series of events ranging from a trip through the famous Huntington Art Gallery at Pasadena to a visit of the motion picture studios.

The leading entertainment feature will be the reproduction of "The Making of the Constitution." This historical pageant, originally produced by the bar association in Kansas City, was staged on a grand scale by the Los Angeles Bar Association last November, when thousands of persons in attempting to see the pageant were turned away from the already capacity-filled auditorium. The Los Angeles production was heartily praised by Will Rogers in his syndicated column.

Preceding the annual meeting of the association, the National Conference of Commissioners on Uniform State Laws will meet in Los Angeles on July 9th. Completed drafts on several subjects are expected to be presented to the conference for adoption.

One of the most beautiful scenic trips ever planned for a convention has been laid out for members going on the special train which leaves Chicago July 10. Stop-overs on the trip west are scheduled at the Colorado Springs-Pikes Peak region, Royal Gorge, Salt Lake City and Boulder Dam, while on the return trip members attending the convention will tour through Yosemite, Yellowstone Park, Redwood Forest and the Columbia River country. A side trip to the Hawaiian Islands, the result of an invitation from the bar association and the people there, is also available.

Reservations on the special train are being received daily, indicating it will be filled to capacity. Complete announcements with detailed itinerary, rates and other information will be mailed upon request to the association headquarters at 1140 North Dearborn Street, Chicago.

*Summary of Review of Legal Education in the United States and
Canada for the Year 1934*

Educators, according to the Carnegie Foundation's Annual Review of Legal Education, are like soldiers and bankers in that they "cannot safely be left to themselves. They are liable, in all honesty, to identify the well-being of the community with that of their particular institution, organization, professional coterie, or social class. Under conditions of popular self-government, the expert must inevitably share responsibility with those who are less well-informed and less efficient."

The above conclusion is part of an article in which Alfred Z. Reed traces the development of the European university out of the free-lance teachers of the Middle Ages, and shows the modifications which America has made in the organization of the institution and in the status of its teaching staff. In England the college professors' traditional powers of self-government have been largely preserved. "A world-wide drift toward state control of all forms of corporate or institutional activity has been retarded by the innate conservatism of the ruling class." In France and Germany, the government has taken over the universities, and "the tendency has been to convert university professors, in the eyes of the law, into state functionaries." In the United States, the movement has been "not so much checked as deflected. . . . The Dartmouth College decision in 1819 proved to be an obstacle rather than a dam. Its most obvious effect, in higher education as in industry, has been to prevent the state from taking over existing corporations. . . . Instead, new state or municipal institutions have been established, side by side with the older type of endowed colleges and universities."

In both cases, the university professor, like his French and German colleagues, rightly invokes the all-important tradition of "academic freedom," but like them he has lost technical legal safeguards for "the most important elements in the tradition . . . security of tenure and stability of compensation." He has been ousted from his original powers of self-government, in favor of a governing board whose own independence is protected by the fact that its members serve during long or—in the case of state universities—staggered terms. Harvard is mainly responsible for the development during the seventeenth and eighteenth centuries of "that sharp division of functions which has come to characterize American institutions of higher learning: on the one side, a non-resident governing body which does not teach; on the other side, a resident teaching body which does not govern, exercising, at most, certain delegated powers of administration; finally, a resident executive, known as president or chancellor, who always acts as liaison officer between the two groups, and, if he rises to his opportunities, shapes the policies of both."

The "flexible tradition" of academic freedom gives to American university professors the powers characteristic of protected bureaucracies. "Woe betide the college or university president who disregards an overwhelming weight of academic opinion, in matters regarded by his faculty as of the first importance!" Nevertheless, "powerful though the salaried teacher is, and ought to be, within the university family, he is not, and ought not to be, supreme. He is the expert within his particular field, and as such is subject to an expert's limitations." In every branch of life, including the conduct of public affairs, "it is becoming more and more obviously desirable, on the one hand to make use of experts, on the other hand to keep experts in their place. In the field of higher education this task . . . devolves upon the university president and his governing board. . . . It is their special responsibility to

see life as a whole, and not blindly to follow the recommendations of influential educational and professional associations."

Professional and vocational schools have clustered about colleges to form universities of the American type. Although these have largely superseded the older apprenticeship system of training, in different professions they are of varying importance as compared with two other organized professional elements; practitioners associations and state licensing boards. A survey of recent developments in medicine, law, engineering and architecture reveals "great differences as regards the extent to which the education of their future members has been taken out of the hands of present practitioners and—to coin a convenient term—institutionalized." Despite these superficial variations, however, fundamental resemblances can be discerned. "In all four of these professions, national practitioners associations are trying, or recently have been trying, to coordinate schools and state licensing authorities under their own leadership. In all four cases, the schools are tenacious of the position which they have secured for themselves—often against practitioners' opposition—in the educational scheme. In proportion as these schools, or a particular group of these schools, become strong, both financially and in professional and public prestige, they assume the aggressive, and try to increase the privilege and powers which they already possess."

During the year, the number of states which insist that applicants, before taking their bar examination, must show any general education and subsequent time devoted to law study has been increased from eighteen to twenty-four. One state, New Mexico, enjoys the distinction of being the first to follow all the recommendations made by the American Bar Association in 1921. Twenty-two states in all made changes varying greatly in nature and importance. "So long as lawyers are regarded as constituting a single profession, instead of several, so long will it be difficult to reconcile the educational aims of orthodox bar admission reformers, of traditionally-minded practitioners, and of the many ambitious young men and women who seek to enter a legally privileged class. . . . Of greater promise for the future than these attempts to accomplish the impossible are certain innovations which have been made during the past year." Among those favorably noted are the establishment by New Mexico, in a rudimentary form, of a probationary bar, and the delegation by seven states to the National Conference of Bar Examiners of responsibility for investigating the character of applicants already admitted to practice elsewhere.

The Review criticises, however, rules which provide that if an applicant secures part of his preparation in an attorney's office, the attorney must be "approved." This requirement establishes "a lower grade of practitioner: lawyers good enough to remain in practice, but not good enough to be entrusted with the destinies of the young. It may be doubted whether provisions of this sort will have great practical importance. The principles of selection which can be most readily applied are the race and the social standing of the applicant. Although undoubtedly, in some of our larger cities, individual lawyers believe that the solution of the ethical problem is to ensure the dominance, in legal practice, of cultivated gentlemen of Anglo-Saxon stock, this attitude is so opposed to our American traditions that it has small chance of being generally adopted." Yet even this experiment "points the way to better things. Some day recognition of the diversity of legal functions may form the basis for a corresponding division of legal practitioners into separate groups, each of which shall be adequately prepared for their own special responsibilities."

The Review records also outstanding developments among the law schools. Comparative tables show the present requirements for admission to the bars

of each of the sixty states and Canadian provinces, and changes in the number of law schools of different types, and of their students, since 1890. The individual schools are listed, with their tuition fees, student attendance, and the time required to complete the course, in parallel columns, distinguishing from the eighty-two full-time law schools of the United States and the four full-time law schools of Canada, the 111 part-time or "mixed" schools in this country that offer instruction at hours convenient for self-supporting students, and the six Canadian schools in which the students serve a concurrent clerkship in a law office.

An appendix shows the number of lawyers in the several states and Canadian provinces at successive census dates, quotes the current standards of the American Bar Association and of the Association of American Law Schools, and lists the publications of the Carnegie Foundation dealing with legal education and cognate matters.

Copies of these publications, including the present "Review of Legal Education in the United States and Canada for the Year 1934," may be had without charge upon application by mail or in person to the office of the Foundation, 522 Fifth Avenue, New York City.